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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

SONOMA SPRINGS LIMITED
PARTNERSHIP, *et al.*,
Plaintiffs,

v.

FIDELITY AND DEPOSIT COMPANY OF
MARYLAND, *et al.*,
Defendants.

3:18-cv-00021-LRH-VPC

**STIPULATION AND ORDER TO STAY
PROCEEDINGS PENDING
CONCLUSION OF GLOBAL
SETTLEMENT CONFERENCE**

Plaintiffs SONOMA SPRINGS LIMITED PARTNERSHIP and SONOMA SPRINGS ASSOCIATES, LLC (hereinafter collectively “Plaintiffs”), by and through their counsel of record, HOLLEY, DRIGGS, WALCH, FINE, WRAY, PUZEY & THOMPSON, and Defendants FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a Maryland Corporation and ZURICH AMERICAN INSURANCE COMPANY OF ILLINOIS, a Maryland Corporation

(hereinafter collectively “Defendants”), by and through their counsel of record, SNOW CHRISTENSEN & MARTINEAU and LAXALT & NOMURA, LTD., stipulate as follows:

1. This case follows from allegations by Plaintiffs that Defendants breached their duties under the contract and bonds related to the construction of low-income housing in Humboldt County, Nevada. Specifically, this legal dispute centers on performance and payment bonds furnished to Plaintiffs by Fidelity and Deposit Company of Maryland, as surety for Ascent Construction, the general contractor on the construction project.

2. Related to this matter are ongoing consolidated proceedings (Case Nos. CV21,053 and CV21,125) now pending in the Sixth Judicial District Court for the State of Nevada as between Ascent Construction and Plaintiffs, which relate to Ascent Construction’s efforts to judicially foreclose on its mechanic’s lien and the parties’ performance of their obligations under the construction contract.

3. On March 12, 2018, the parties to this action appeared before the Court for a Case Management Conference. During the Case Management Conference, the Court advised that it is amenable to conducting a global settlement conference between the parties to this matter, as well as those in the related proceedings before the Sixth Judicial District Court for the State of Nevada.

4. On March 16, 2018, the parties filed a Supplemental Joint Case Management Report and Request for Settlement Conference (ECF No. 34) advising the Court that the parties wished to accept the Court’s offer to conduct a global settlement conference.

5. On March 20, 2018, the Court issued its order setting the matters for a settlement conference for April 30, 2018 (ECF No. 36).

6. In connection with that settlement conference and in an effort to preserve resources, Plaintiffs and Defendants hereby agree to stay this action, including discovery and motion briefing, until after the conclusion of the April 30, 2018 settlement conference.

7. To determine if a stay is appropriate, the Court considers (1) damage from the stay; (2) hardship or inequity that befalls one party more than the other; and (3) the orderly course of justice. *See Dependable Highway Exp., Inc. v. Navigators Ins. Co.*, 498 F.3d 1059,

1 1066 (9th Cir. 2007) (setting forth factors). Here, the parties agree these factors support a
2 temporary stay of litigation:

3 a. **Damage from Stay:** Any damage from a temporary stay will be minimal
4 if balanced against the potential fees, costs, and time that would surely ensue in this matter if
5 litigation were allowed to continue, which could be mooted by a global resolution of the multiple
6 actions. Indeed, the parties will be able to avoid the cost and expense of continued legal
7 proceedings including continued briefing on the now pending Motion to Stay Case Pending
8 Outcome of Litigation in Humboldt County, Nevada (ECF No. 30), as well as the need for
9 discovery given the limited time available until its close. Moreover, if a global resolution is
10 reached, the Court will be relieved of expending further time and effort resolving the pending
11 motion and potential discovery disputes. Thus, a stay will benefit all parties involved herein.

12 b. **Hardship or Inequity:** There will be no significant hardship or inequity
13 that befalls one party more than the other given the relatively short period of the requested stay.
14 The parties agree that any hardship or inequity falling on any of them is outweighed by the
15 benefits of a stay.

16 c. **Orderly Course of Justice:** The outcome of this case is dependent in
17 large part on the outcome of the proceedings that are ongoing in the Sixth Judicial District Court
18 for the State of Nevada. By staying this matter temporarily so the parties may engage in
19 settlement discussions with the Court's assistance, the potential for inconsistent outcomes is
20 lessened with the chances of a global resolution heightened. Without a stay, the parties will
21 expend resources that will be unnecessary if a global resolution is reached. As such, a temporary
22 stay would substantially promote the orderly course of justice.

23 8. The parties therefore agree that all proceedings in the instant case, including
24 motion, discovery and other litigation deadlines, are stayed pending the conclusion of the global
25 settlement conference set for April 30, 2018.

26 9. Any response to the now pending Motion to Stay Case Pending Outcome of
27 Litigation in Humboldt County, Nevada (ECF No. 30) shall not be due until 14 days following
28 the completion of the settlement conference (May 14, 2018).

1 10. In the event this matter is not resolved at the April 30, 2018 global settlement
2 conference, Plaintiffs and Defendants shall submit an Amended Discovery Plan and Scheduling
3 Order to the Court not later than 14 days after the conclusion of the settlement conference (May
4 14, 2018).

5
6 DATED: March 21, 2018
7 **HOLLEY, DRIGGS, WALCH,**
8 **FINE, WRAY, PUZEY & THOMPSON**

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DATED: March 21, 2018
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COMPANY OF ILLINOIS

23 **IT IS SO ORDERED.**

24 DATED this 23rd day of March, 2018.

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26 
27 LARRY R. HICKS
28 UNITED STATES DISTRICT JUDGE